

Appln. No.09/596,287

Attorney Docket No. 10543-14

IV. Remarks

In response to the Office Action mailed September 3, 2003, kindly enter the foregoing amendment and consider the following remarks. Pursuant to 37 CFR §1.112, Applicant requests reconsideration of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. In this Amendment, claim 13 has been canceled, claims 9 and 12 have been amended, and claims 28 and 29 have been added. Thus claims 1-7, 9, 10, 12, 14, 16, 19-22 and 24-29 are pending and are at issue herein. In view of these amendments and the following remarks, favorable reconsideration of this application is requested.

ALLOWABLE SUBJECT MATTER

The Applicant would like to thank the Examiner for acknowledging patentable subject matter. Specifically, the Examiner noted on page 5 of the Office Action that claims 1-7, 9, 10 and 22 are allowed. Further, the Examiner again noted that claims 20 and 21 are allowable if rewritten in independent form. At this time, Applicant has not amended claims 20 and 21 into independent form since independent claim 16 from which they depend is believed to be in condition for allowance.

CLAIM REJECTIONS UNDER 35 USC §103

Claims 12, 13 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hiwatashi (U.S. Pat. No. 6,094,614) in view of Matsuno (U.S. Pat. No. 6,163,747). Claim 14 as well as claims 16, 19 and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hiwatashi and Matsuno, and further in view of Breed (U.S. Pat. No. 6,370,475).

Independent claims 12 and 16 are directed towards an apparatus and method for controlling a vehicle which utilizes a database of various roads that includes data on road surface type (i.e. pavement, asphalt, gravel, etc.; see page 7 of specification). A weather signal is utilized that is indicative of a proximate weather

-7-

**BRINKS
HOFER
GILSON
ALIONE**BRINKS HOFER GILSON & LIONE
PO Box 10395
Chicago, IL 60611-5599

Appln. No.09/596,287

Attorney Docket No. 10543-14

condition. A controller generates a control signal that includes a road surface condition that is based on the road surface type and the proximate weather condition. These elements are not met by the prior art.

Even assuming, *arguendo*, the propriety of the Examiner's proposed combination, all of the recited elements in claims 12 and 16 are not met by the proposed combination. Simply stated, neither Breed nor Hiwatashi nor Matsuno discloses a database having data on road surface type. Thus, none of the references discloses generation of a control signal that includes road surface condition based on both the road surface type and proximate weather conditions.

To the contrary, Hiwatashi and Matsuno simply disclose the detection of a road friction coefficient based solely on weather conditions which are detected by either air temperature sensors (i.e. Hiwatashi at column 4, lines 30-35 and Matsuno column 5, lines 32-39) or a rain fall sensor which can include actuation of vehicle wipers (Matsuno at column 5, lines 40-50). Hiwatashi and Matsuno are illustrative of the road friction coefficient estimating apparatus noted in the background section of the present application, the limitations of which are described therein.

Likewise, Breed refers to a similar system at column 42, lines 10-25 (i.e. sensors), but also includes weather predictions based on local meteorological stations and broadcasts. Breed simply does not refer to any determination of a road surface type. Rather, Breed refers to speed limits, presence of guard rails, width of each lane, width of the highway, width of the shoulder and other information indicative of location of road and lane boundaries which would be useful for preventing vehicular accidents, which is the purpose of the invention. Breed certainly does not disclose using both a road surface type and a proximate weather condition to generate a road surface condition.

For these reasons, the Applicant respectfully requests reconsideration of independent claims 12 and 16, as well as their dependent claims.

CONCLUSION

In view of the preceding amendments and remarks, the Applicant respectfully submits that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be

-8-



BRINKS HOFER GILSON & LIONE
PO Box 10395
Chicago, IL 60611-5599

Appln. No.09/596,287

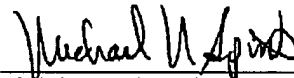
Attorney Docket No. 10543-14

advantageous to the disposition of this case, Applicant respectfully requests that the Examiner contact the Attorney of the Applicant at the earliest convenience of the Examiner.

Applicant has calculated no fees to be presently due in connection with the filing of this Paper. However, Applicant has authorized charging of any fee deficiency to a deposit account, as indicated in the Transmittal accompanying this Statement.

10/29/03
Date

Respectfully submitted,



Michael N. Spink (Reg. No. 47,107)
Attorney/Agent for Applicant

-9-



BRINKS HOFER GILSON & LIONE
PO Box 10395
Chicago, IL 60611-5599